

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:	:	Docket No.: 6674-0037-1
SYLVIE GAUTHIER et al.	:	Date: February 2, 2007
Serial No.: 10/762,103	:	Examiner: T. Tran
Filing Date: January 20, 2004	:	Art Unit: 1711
Title: LEATHER DECORATIVE LAMINATE		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir/Madam:

This Pre-Appeal Brief Request for Review is in response to the final office action of November 2, 2006. Claims 1-33 are pending. Claims 8-21 are withdrawn from consideration. Claims 1-7 and 22-33 are rejected. The rejections will be addressed in the order established within the office action.

5. Claims 1, 3-6 and 22-33 are rejected under the judicially created doctrine of obviousness-type double patenting. As indicated by the Examiner in the 11/2/2006 office action, this rejection is held in abeyance pending the disposition of the claims.

7. Claims 1-2, 4-6 and 24-25 are rejected under 35 U.S.C. §102(b) as being unpatentable over U.S. Pat. No. 3,698,978 (hereinafter the “’978 Patent”).

Present independent claim 1 recites a heat and pressure consolidated laminate that comprises in superimposed relationship: a) a core layer containing at least one cellulosic sheet impregnated with a thermosetting resin; and b) a first decorative layer consisting essentially of a leather material.

The ‘978 Patent fails to anticipate claim 1 because the ‘978 Patent fails to disclose a feature of claim 1, that of “a first decorative layer consisting essentially of a leather material.” Supporting argument found within Applicants’ response of 8/16/06, pages 8-9.

The ‘978 Patent discloses a laminate including a print sheet comprising a cellulosic sheet and a pattern that provides an appearance that simulates leather. The print sheet is not actual leather material, as called for in claim 1. See 8/16/06 Response, pages 8-10.

Claims 24 and 25 depend from independent claim 7. Claim 7 recites a heat and pressure consolidated laminate, comprising in superimposed relationship: a) a core layer containing at least one cellulosic sheet impregnated with a thermosetting phenol-formaldehyde resin, said cellulosic sheet having a resin content ranging from about 25 percent to about 35 percent; b) a first decorative layer consisting essentially of a leather material, said first decorative layer is bonded leather having a sheet thickness ranging from about 0.2 mm to about 4.0 mm; and c) an overlay layer disposed on a side of said first decorative layer opposite the core layer, said overlay layer being at least one sheet of alpha cellulose paper impregnated with a melamine formaldehyde resin. Claim 24 recites the additional element of a backer layer. Claim 25 recites the additional element that the backer layer comprises at least one cellulosic sheet impregnated with a thermosetting resin.

The ‘978 Patent fails to anticipate claims 24 and 25 for at least the reason that the ‘978 Patent does not disclose the use of bonded leather. Applicants respectfully direct

the Examiner to pages 1 and 2 of the present application wherein the disadvantages of natural leather (e.g., shrinkage, defects, size limitations, etc.) and the advantages of bonded leather (e.g., negligible shrinkage, pre-prepared product, no stretching required, virtually no size limitations, etc.) are described. Supporting argument can be found on page 12 of Applicants' response of 8/16/06.

8. Claims 1-6 are rejected under 35 U.S.C. §102(b) as being unpatentable over U.S. Pat. No. 3,700,537 (hereinafter the "537 Patent").

Present independent claim 1 recites a heat and pressure consolidated laminate that comprises in superimposed relationship: a) a core layer containing at least one cellulosic sheet impregnated with a thermosetting resin; and b) a first decorative layer consisting essentially of a leather material.

The '537 Patent fails to anticipate claim 1 because the '537 Patent fails to disclose a feature of claim 1, that of "a first decorative layer consisting essentially of a leather material." Supporting argument can be found on pages 8-10 of Applicants' response of 8/16/06.

The '537 Patent, in contrast, discloses a laminate having an upper decorative surface with a pattern that provides an appearance that simulates leather. The laminate disclosed in the '537 Patent contains primarily paper sheets that comprise the various layers, and the laminate does not contain any actual leather material, as called for in claim 1. See pages 8-10 of Applicants' response of 8/16/06.

In addition to the above, the '537 Patent fails to anticipate claim 3 because the '537 Patent fails to disclose a feature of claim 3, that the "decorative layer is bonded leather". There is no disclosure in the '537 Patent regarding the use of bonded leather. Applicants respectfully direct the Examiner to pages 1 and 2 of the present application wherein the disadvantages of natural leather (e.g., shrinkage, defects, size limitations, etc.) and the advantages of bonded leather (e.g., negligible shrinkage, pre-prepared product, no stretching required, virtually no size limitations, etc.) are described. Supporting argument can be found on page 12 of Applicants' response of 8/16/06.

10. Claims 7 and 22-33 are rejected under 35 U.S.C. §103(a) as being unpatentable over the '978 Patent or the '537 Patent in view of U.S. Pat. No. 2,732,325 (hereinafter the "'325 Patent") or U.S. Pat. No. 3,589,974 (hereinafter the "'974 Patent").

Present independent claim 7 recites a heat and pressure consolidated laminate, comprising in superimposed relationship: a) a core layer containing at least one cellulosic sheet impregnated with a thermosetting phenol-formaldehyde resin, said cellulosic sheet having a resin content ranging from about 25 percent to about 35 percent; b) a first decorative layer consisting essentially of a leather material, said first decorative layer is bonded leather having a sheet thickness ranging from about 0.2 mm to about 4.0 mm; and c) an overlay layer disposed on a side of said first decorative layer opposite the core layer, said overlay layer being at least one sheet of alpha cellulose paper impregnated with a melamine formaldehyde resin.

Present independent claim 26 recites a heat and pressure consolidated laminate, comprising in superimposed relationship: a) a core layer containing at least one cellulosic sheet impregnated with a thermosetting phenol-formaldehyde resin, the cellulosic sheet having a resin content ranging from about 25 percent to about 35 percent; and b) a first decorative layer consisting essentially of a leather material, the first decorative layer having a sheet thickness ranging from about 0.2 mm to about 4.0 mm.

Present independent claim 33 recites a heat and pressure consolidated laminate, comprising in superimposed relationship: a) a core layer containing at least one cellulosic sheet impregnated with a thermosetting phenol-formaldehyde resin, the cellulosic sheet having a resin content ranging from about 25 percent to about 35 percent; and b) a first decorative layer consisting essentially of a leather material bonded to the core layer.

A prima facie case of obviousness has not been made out with respect to claims 7, 26 and 33, for at least the reason that both the '978 Patent and the '537 Patent do not disclose the claimed feature of "a first decorative layer consisting essentially of a leather material", which feature is recited in each of claims 7, 26 and 33. Supporting argument can be found on pages 8-10 of Applicants' response of 8/16/06.

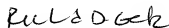
In addition to the arguments above, claim 7 is not unpatentable in view of the cited references for at least the reason that "said first decorative layer is bonded leather"

as recited in claim 7. Supporting argument can be found on page 12 of Applicants' response of 8/16/06.

Applicants respectfully request the Pre-Appeal Panel fully consider the arguments provided and pass the present application be passed onto issuance.

Please charge our Deposit Account No. 50-3381 for the appropriate fee.

Respectfully submitted,



Richard D. Getz, Reg. No. 36,147
Attorney for Applicant
O'Shea, Getz & Kosakowski, P.C.
Suite 912
1500 Main Street
Springfield, MA 01115
413-731-3100